

## REMARKS

As the Examiner is reopening prosecution of the present application and issuing the present Office Action after the submission of an Appeal Brief, Applicant would like to recount the lengthy prosecution history that has taken place to date. In a first Office Action, dated December 19, 2003, the Examiner rejected then pending claims 1 through 11 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,694,593 to Baclawski ("Baclawski") in view of U.S. Patent No. 4,860,201 to Stolfo ("Stolfo") and further in view of U.S. Patent Application No. 2001/0011268 to Tsuchida ("Tsuchida"). In the Response of June 18, 2004, Applicant made minor amendments to the specification, canceled claims 1 through 11 and added new claims 12 through 20.

The Examiner rejected claims 12 through 20 in the Final Office Action dated November 1, 2004, asserting that these new claims were also obvious over the combination of Baclawski, Stolfo and Tsuchida. Applicant responded on February 1, 2005 with substantive remarks to delineate points of distinction between claims 12 through 20 and Baclawski, Stolfo and Tsuchida, in response to which Applicant received an Advisory Action on February 25, 2005.

Applicant timely filed a Notice of Appeal and Appeal Brief (April 27, 2005 and November 28, 2005, respectively) in response to the Advisory Action in which Applicant further delineated points of distinction between claims 12 through 20 and Baclawski, Stolfo and Tsuchida. The next substantive paper received in the application is the present Office Action of June 20, 2006.

In the present Office Action, the Examiner reopens prosecution of the application but does not provide a substantive response to the points that Applicant raises

in the Appeal Brief. The Examiner does, however, raise new grounds for the rejection of claims 12 through 20 and no longer appears to be asserting the rejection of the pending claims as obvious under 35 U.S.C. §103(a). As such, Applicant contends that the *Examiner's acquiescence to the substantive remarks put forth in the Appeal Brief have been considered and deemed persuasive, and that claims 12 through 20 are allowable over the prior art.*

In accordance with the new grounds of rejection, the Examiner rejects independent claim 12 under 35 U.S.C. §101, asserting that the claim is directed to non-statutory subject matter. The Examiner also rejects dependent claim 19 under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Although the Examiner fails to provide grounds for the rejection of or objection to claims 13 through 18 and 20, Applicant asserts that any grounds for rejection or objection are moot in view of the amendment to claim 12 and accompanying remarks submitted herewith. By way of the present amendment, Applicant further cancels claim 19. Claims 12 through 18 and 20 are presently pending in the application.

In rejecting claim 12 as being directed to non-statutory subject matter, the Examiner asserts that the claim “does not meet the IEEE definition of a data structure and does not combine with an appropriate physical article or object which enables the data structure to act as a computer component and realize its functionality in order to provide a concrete, useful, and tangible result.” Office Action dated June 20, 2006 at p. 3.

Applicant respectfully asserts that the Examiner is incorrect and that the search engine of claim 12 is more than “merely an arrangement of nodes without providing any tangible

result as required under 35 U.S.C. §101.” Office Action dated June 20, 2006 at p. 3.

First, Applicant does not take a position regarding whether the elements of independent claim 12 satisfy a definition of a data structure promulgated by the IEEE. According to the IEEE Standard Dictionary of Electrical and Electronics Terms (5<sup>th</sup> ed.1993), as cited by the Examiner, a data structure is “a physical or logical relationship among data elements, designed to support specific data manipulation functions” (hereinafter “IEEE definition”). Although Applicant agrees that the reference upon which the Examiner is relying puts forth a definition of a data structure, Applicant disagrees that independent claim 12 is limited as such and that the satisfaction of the IEEE definition is a requirement under 35 U.S.C. § 101 or the Patent Laws of the United States. Furthermore, although the Examiner asserts that independent claim 12 fails to meet the requirements of the IEEE definition, the Examiner fails to provide any grounds as to what elements of the IEEE definition the claim fails to satisfy. Applicant requests that the Examiner either put forth grounds as to the requirement to satisfy the IEEE definition as supported by 35 U.S.C. §101, *et seq.*, or withdraw the rejection.

By way of the amendment to independent claim 12 submitted herewith, the Applicant has amended the claim to recite that the search nodes are logically arranged in a table and stored in a computerized memory, the table comprising a plurality of columns and a plurality of a rows, each search node in one of the rows of search nodes including a distinct partition-dependent data set so that a sum of the data sets of all the search nodes in a row yields the collection of documents, and every respective search node in one of the columns of search nodes include substantially the same partition-dependent data set.

As the Examiner agrees, “[w]hen functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since the use of technology permits the function of the descriptive material to be realized.” Office Action of June 20, 2006, ¶2. Accordingly, Applicant has amended claim 12 to recite that the table is stored in a computerized memory. The at least one dispatch node, the plurality of search nodes and the at least one indexing node, wherein the search nodes are logically arranged in the table stored in the computerized memory, are elements of a search engine for searching a collection of documents. The search engine as claimed by independent claim 12 provides a concrete, useful and tangible result as is required under 35 U.S.C. §101, specifically, a search engine to yield a collection of documents. Applicant therefore respectfully requests withdrawal of the rejection of independent claim 12 as directed to non-statutory subject matter and allowance of the same.


The dependent claims of the present application contain additional features that further substantially distinguish the invention of the present application over the prior art of record. Given the Applicants’ position on the patentability of the independent claims, however, it is not deemed necessary at this point to delineate such distinctions.

For at least all of the above reasons, Applicants respectfully request that the Examiner withdraw all rejections, and allowance of all the pending claims is respectfully solicited. To expedite prosecution of this application to allowance, the examiner is invited to call the Applicants' undersigned representative to discuss any issues relating to this application.

Dated: September 20, 2006

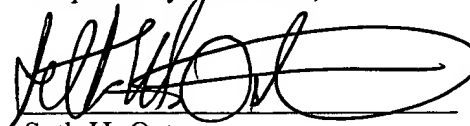
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I hereby certify that the correspondence attached herewith is being deposited this date with the U.S. Postal Service as First Class Mail with sufficient postage addressed to Mail Stop: Amendment, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450.

  
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Susan Formicola

9/20/06  
Date

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